

51

DOCKET FILE COPY ORIGINAL

PEPPER & CORAZZINI, LLP
ATTORNEYS AT LAW

1776 K STREET, N.W., SUITE 200
WASHINGTON, D.C. 20006-2334

VINCENT A PEPPER
EXT. 235
VAP@COMMLAW.COM

March 28, 2000

RECEIVED
MAR 28 2000
(202) 296-0600
FAX (202) 296-5572
WWW.COMMLAW.COM
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

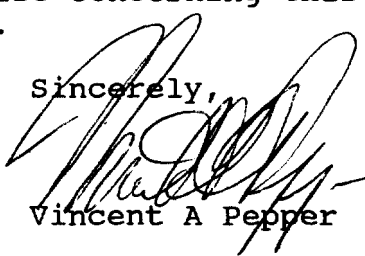
Re: Amendment of Section 73.202(b)
FM Table of Allotments
(Windthorst, Texas)

Dear Ms. Salas:

Transmitted herewith on behalf of Windthorst Radio Broadcasting Company is an original and four copies of its Petition for Rule Making seeking to allot Channel 230C3 to Windthorst, Texas, as that community's first FM broadcast transmission service.

Should any questions arise concerning this matter, please communicate with this office.

Sincerely,


Vincent A Pepper

Enclosures

No. of Copies rec'd 0+4
List ABCDE

MMB

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
MAR 28 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of 73.202(b))	MM Docket No. _____
Table of Allotments)	
FM Broadcast Stations)	
(Windthorst, TX))	
)	

To: John Karousos, Chief
Allocations Branch
Mass Media Bureau

PETITION FOR RULE MAKING

Pursuant to 47 C.F.R. 1.401, Windthorst Radio Broadcasting Company respectfully petitions the FCC to institute a Rule Making proceeding to amend the FM Table of Allotments to add Channel 230C3 at Windthorst, Texas.

DISCUSSION

Petitioner respectfully submits that the public interest would be served by allocating Channel 230C3 to Windthorst, Texas, as that community's first FM broadcast transmission service.

Windthorst is an incorporated city of nearly 400 persons, located in Archer County, Texas, whose population increased 9.7% since the 1980 Census to a population of 7,973 persons in 1990. See Engineering Statement, attached hereto, at 1. Windthorst has its own school district -- with three campuses (high school,

junior high and elementary) --, its own fire department, St. Mary's Catholic Church and its own post office/zip code. As an incorporated city, Windthorst is governed by Mayor Sue Steinberger and City Manager Don Frerich.

Evidence of Windthorst's "growing needs" is the fact that school enrollment is up five percent in 1999-2000 over the prior school year.^{1/} Like other "communities" to which the FCC has allotted a "first" local FM service, Windthorst also has a local library and at least 68 commercial business establishments.^{2/} These retail businesses include Kotter Tires, D&L Sales, Windthorst Quick Stop, Oodles, Wolf's Mini Mart, Andy Roe's Windthorst Exxon, Blue Cow Cafe and Berend Brothers Store.

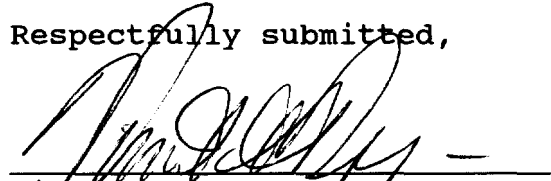
Attached hereto is an engineering report, which contains a channel study confirming that Channel 230C3 can be allocated to Windthorst, Texas, consistent with the FCC's separation rules. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992).

^{1/} Source: Cindy Frerich, Office of Superintendent of Windthorst Independent School District.

^{2/} Source: Dun & Bradstreet, 1999.

Finally, should this Petition be granted, and Channel 230C3 be allotted to Windthorst, Texas, Petitioner will apply for Channel 230C3 and, after it is authorized, will promptly construct the new facility.

Respectfully submitted,



Vincent A Pepper Esq.
Counsel for Windthorst Radio
Broadcasting Company

Pepper & Corazzini, L.L.P.
Suite 200
1776 K Street, N.W.
Washington, DC 20006
202/296-0600

Dated: March 28, 2000

**ENGINEERING STATEMENT
IN SUPPORT OF
PETITION FOR RULE MAKING**

March 22, 2000

**Windthorst Radio Broadcasting Co.
FM Channel 230C3 □ 93.9 Megahertz
Windthorst, Texas**



LAWRENCE L. MORTON ASSOCIATES
2867 BELDEN DRIVE
HOLLYWOOD HILLS, CALIFORNIA 90068-1901
(323) 467-5010 / FAX (323) 467-5848

ENGINEERING STATEMENT

The information and data contained within this engineering statement were prepared on behalf of Windthorst Radio Broadcasting Co., in support of a Petition for Rule Making. The petitioner proposes to amend the FM Table of Allotments, 47 C.F.R. § 73.202(b) of the Commission's Rules, by allotting Channel 230C3 to Windthorst, Texas.

I. WINDTHORST, TEXAS

Windthorst is an incorporated city located within Archer County, Texas. The 1990 U.S. Census population of Windthorst was 367 persons. The 1990 U.S. Census population of Archer County was 7,973 persons, an increase of 9.7 percent above the 1980 U.S. Census population of 7,266 persons.

Windthorst has been assigned Postal ZIP Code 76389 by the U.S. Postal Service. The city has no aural broadcast services. The Bureau of the Census centroid geographic coordinates of Windthorst, referenced to the North American Datum of 1927, are:

North Latitude: 33 degrees, 34 minutes, 32 seconds
West Longitude: 98 degrees, 26 minutes, 12 seconds

Because of stations KICM(FM) on Channel 229C2 at Healdton, KZCD(FM) on Channel 231C2 at Lawton, KGDE(FM) on Channel 231C at Fort Worth, and a vacant allotment on Channel 229C2 at Krum, a site restriction is required for the Channel 230C3 allotment at Windthorst. At a point corresponding to the following geographic coordinates, which is 11.6 kilometers southwest of Windthorst, the Channel 230C3 allotment can be made at Windthorst in compliance with the minimum distance separation requirements 47 C.F.R. § 73.207.

North Latitude: 33 degrees, 29 minutes, 43 seconds
West Longitude: 98 degrees, 31 minutes, 00 seconds

From these reference geographic coordinates, Channel 230C3 is fully-spaced to all FCC assignments, allotments and proposals contained within the latest *FCC FM Engineering Database*. Figures one and two show the relative locations of Archer County within the State of Texas, and of the City of Windthorst within Archer County. Figures three and four show the incorporated city limits of Windthorst and the allotment reference site.

II. MINIMUM SPACING REQUIREMENTS

The following table lists the nearest assignments and allocations currently on file with the required distance separations for Channel 230C3.

As required by § 73.207 all minimum distance separation requirements are met from the Channel 230C3 allotment reference site proposed for Windthorst. All distances were computed by the methods outlined in § 73.208(c) of the Commission's Rules and were rounded to the nearest kilometer in accordance with § 73.208(c)(8).

ALLOCATION-PERTINENT STATIONS AND SPACING REQUIREMENTS OF § 73.207					
CALL LETTERS	CHANNEL /CLASS	NORTH LATITUDE	WEST LONGITUDE	ACTUAL DISTANCE	REQUIRED DISTANCE
KKNG-FM	227-C	35° 07' 58"	97° 37' 28"	199. Km	96. Km
KKMR	227-C2	32° 48' 29"	97° 07' 52"	150	56
KLXK	228-C3	33° 06' 51"	98° 19' 57"	46	43
KLXK	228-C2	32° 46' 55"	98° 56' 22"	88	56
KLBJ-FM	229-C	30° 18' 36"	97° 47' 33"	361	176
KXTQ-FM	229-C1	33° 30' 57"	101° 50' 54"	310	144
ALLOC	229-C2	33° 35' 10"	97° 12' 47"	122	117
KCRN-FM	230-C1	31° 42' 11"	100° 19' 20"	261	211
ALLOC	230-C2	33° 35' 24"	99° 15' 36"	70	177
KZCD	231-C2	34° 33' 00"	98° 32' 20"	117	117
KGDE	231-C	32° 35' 22"	96° 58' 10"	176	176
KYOX	232-C2	31° 54' 51"	98° 41' 48"	176	56
KSEY-FM	232-A	33° 35' 49"	99° 16' 42"	72	42
KDGE	233-C	33° 33' 36"	96° 57' 35"	145	96
KKDA-FM	283-C	32° 35' 22"	96° 58' 10"	176	31
KYYI	284-C	34° 05' 35"	98° 52' 44"	74	31

III. CONCLUSIONS

The results of this study demonstrate that the FM Table of Allotments in § 73.202(b) of the Commission's Rules may be amended in technical compliance with all applicable spacing rules. Therefore, the Petitioner, Windthorst Radio Broadcasting Co., respectfully requests the following change to the Table:

PRESENT
CITY CHANNEL
Windthorst, TX ----

PROPOSED
CITY CHANNEL
Windthorst, TX 230C3

The petitioner asserts that, upon allotment of Channel 230C3 to Windthorst and the lifting of the present freeze on new applications, an application for construction permit to build a new Class C3 facility will be filed promptly to serve Windthorst, Texas.

Respectfully Submitted,

Lawrence L. Morton, P.E.
Consulting Engineer to the Petitioner
March 22, 2000



State of Texas

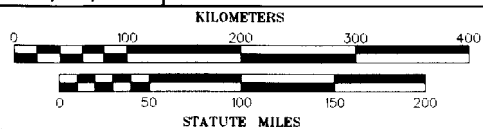
Gulf of Mexico

CENTER OF MAP:

N LAT 31° 20' 56.00"
W LON 99° 39' 55.00"

Scale 1 : 6,642,985

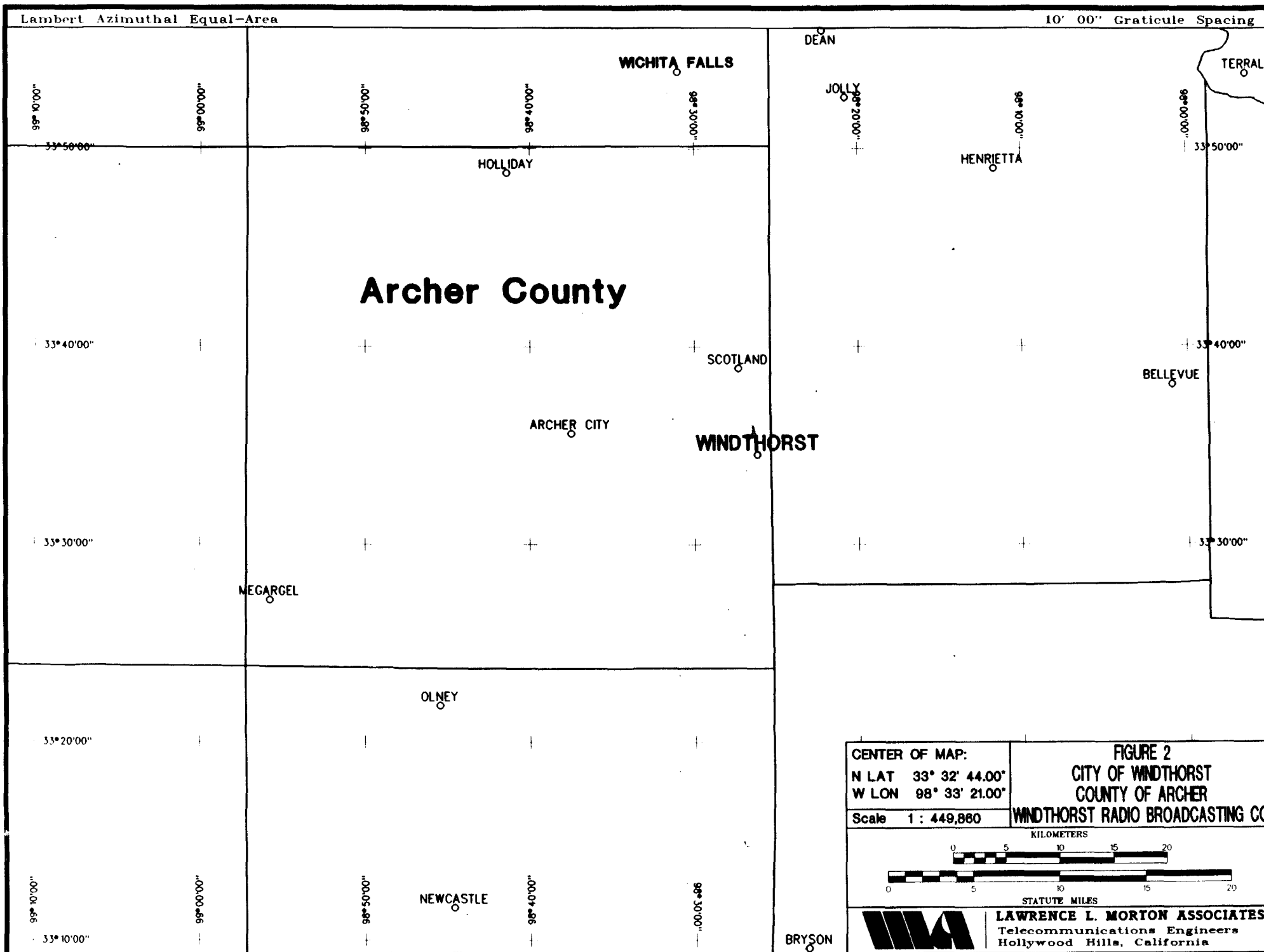
FIGURE 1
COUNTY OF ARCHER
STATE OF TEXAS
WINDTHORST RADIO BROADCASTING CO.



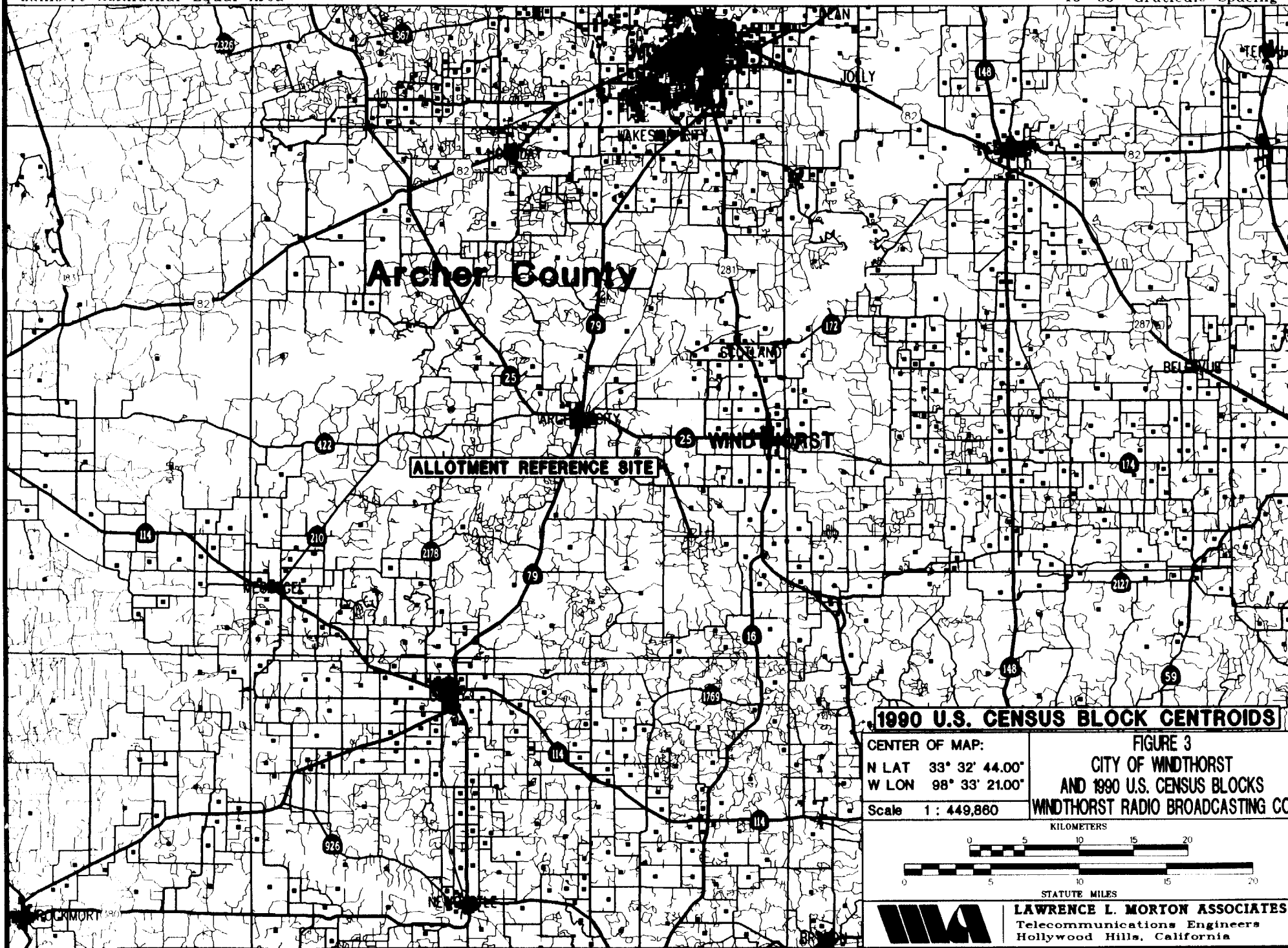
LAWRENCE L. MORTON ASSOCIATES
Telecommunications Engineers
Hollywood Hills, California

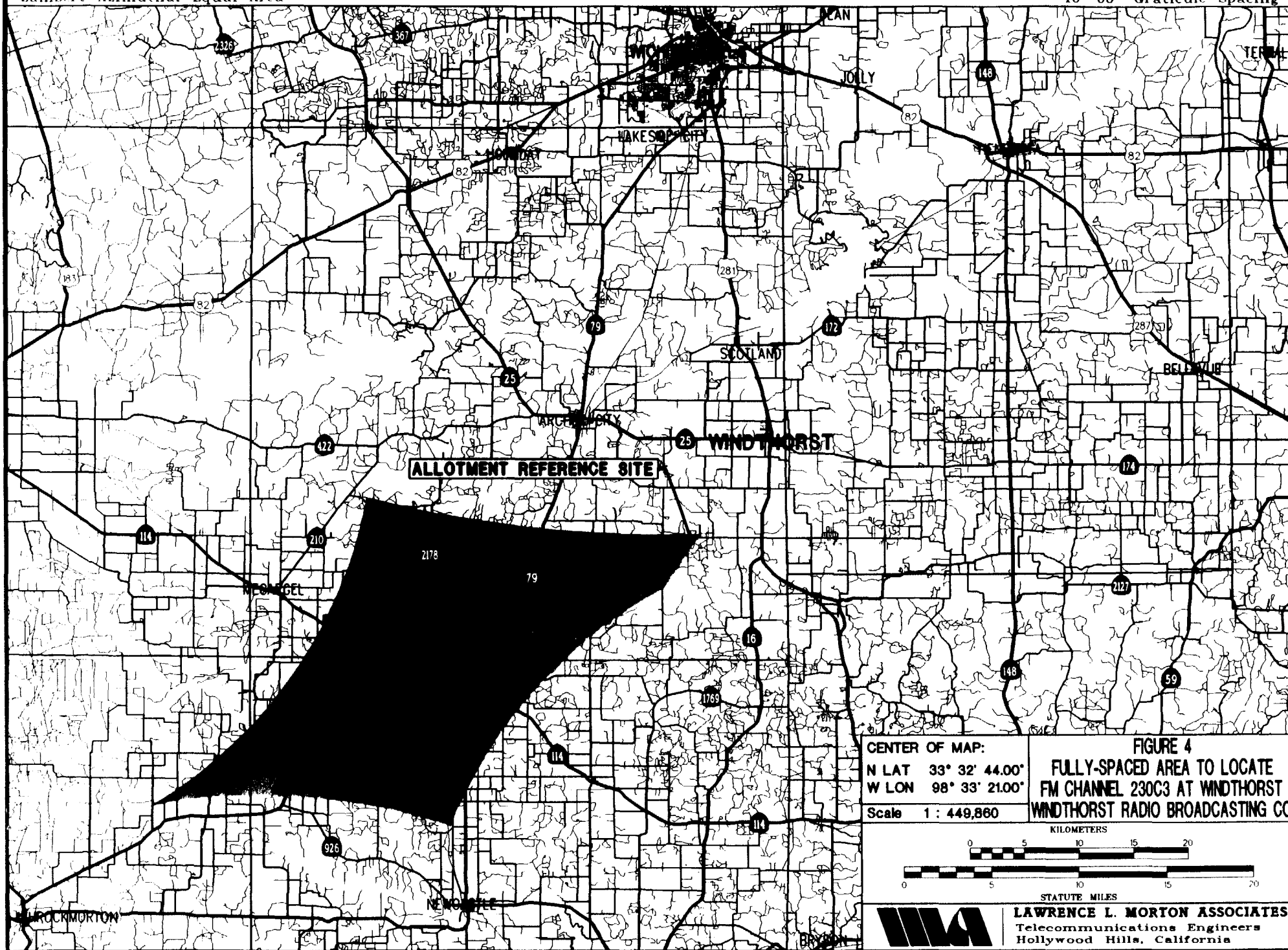
Lambert Azimuthal Equal-Area

10' 00" Graticule Spacing



CENTER OF MAP: N LAT 33° 32' 44.00" W LON 98° 33' 21.00"		FIGURE 2 CITY OF WINDHORST COUNTY OF ARCHER WINDHORST RADIO BROADCASTING CO.
Scale 1 : 449,860		
		LAWRENCE L. MORTON ASSOCIATES Telecommunications Engineers Hollywood Hills, California





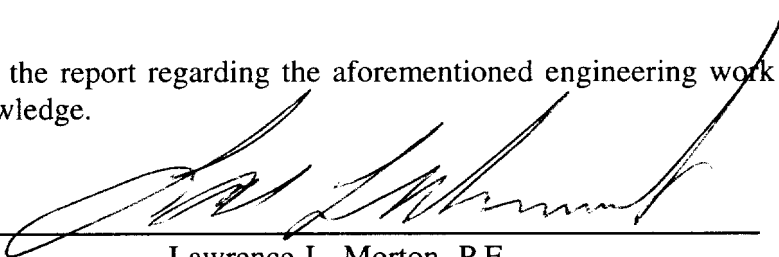
AFFIDAVIT

State of California)
) ss:
County of Los Angeles)

Lawrence L. Morton, being first duly sworn upon oath, deposes and says:

- That he is a qualified engineer,
- That he is a Registered Professional Engineer in the State of California,
- That he is a member of the Association of Federal Communications Consulting Engineers,
- That his qualifications are a matter of record with the Federal Communications Commission,
- That he has prepared many broadcast applications and engineering exhibits that have been filed with and granted by the Federal Communications Commission,
- That he has carried out such engineering work and that the results thereof are attached hereto and form part of this affidavit, and
- That the foregoing statement and the report regarding the aforementioned engineering work are true and correct of his own knowledge.

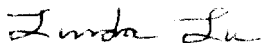
Date: March 22, 2000



Lawrence L. Morton, P.E.

On March 22, 2000, before me, Linda Lu, a Notary Public, in and for the State of California, personally appeared Lawrence L. Morton known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

My Commission expires 11/30/2001



Notary Public

